

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 00-CR-0126-007-CVE
)	
KENNETH WAYNE STIGER,)	
)	
)	
Defendant.)	

OPINION AND ORDER

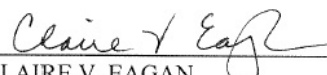
Now before the Court is defendant’s Petition for Leave of Court to Apply for Writ of Habeas Corpus (Dkt. # 1116). Defendant previously filed a motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255 (Dkt. # 1084), and this Court denied relief on November 19, 2009 (Dkt. # 1107). Defendant filed a notice of appeal (Dkt. # 1109), and the United States Court of Appeals for the Tenth Circuit dismissed his appeal as untimely (Dkt. # 1113).

Although defendant’s petition does not mention 28 U.S.C. § 2255, that is the only statutory basis for the relief he seeks. Therefore, the instant petition is a petition to file a second or successive § 2255 motion. “A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals” 28 U.S.C. § 2255(h). Section 2244(b)(3)(A) states that, “[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A).

Defendant must apply to the United States Court of Appeals for the Tenth Circuit before filing a second or successive § 2255 motion in this Court. Therefore, the Court cannot grant the relief he seeks.

IT IS THEREFORE ORDERED that defendant's Petition for Leave of Court to Apply for Writ of Habeas Corpus (Dkt. # 1116) is **denied**.

DATED this 19th day of August, 2010.



CLAIRE V. EAGAN
UNITED STATES DISTRICT JUDGE